IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6774 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRINCIPAL SECONDARY SCHOOL ARNEJ

Versus

PARMAR SAMANTBHAI UKABHAI

Appearance:

MS DAXA R VYAS for Petitioners

MR PD SHAH for Respondent No. 1

Mr.K.P. Raval, Asstt. GOVERNMENT PLEADER for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 17/11/2000

ORAL JUDGEMENT

The matter was called out twice, in the morning and in the afternoon, but none is present for the petitioner as well as for respondent no.1.

2. The present writ petition is filed by the

petitioners challenging the order dated 21.6.1990 passed by the Gujarat Secondary Education Tribunal, Ahmedabad ("the Tribunal" for brevity) in Application Nos.601 of 1988 and 482 of 1989, whereby the order of termination dated 5.8.1989 was quashed. It was ordered that respondent no.1, Parmar Samantbhai Ukabhai be reinstated from the date of the order. In the petition, the petitioner had earlier challenged the virus of the Gujarat Secondary Education Act, 1972 as applicable to Gujarat, but subsequently said prayer was deleted on 26.9.1994.

3. Learned Assistant Govt. Pleader, Mr.K.P. Raval, appearing for the District Education Officer, Amreli, respondent no.2 herein has pointed out that the Tribunal has considered the facts of the case in detail and has thereafter held that the school could and should have instituted an inquiry by a person other than the Headmaster so that justice could not only have been done but would have appeared to have been done. It is also held by the Tribunal that the inquiry report does not seem to have been supplied to the applicant and the second show cause notice does not mention the inquiry report to have been enclosed. The case of the applicant that the inquiry report was not sent to him, got support from the second show cause notice, exhibit 'F'.

4. The Tribunal has also held that though the inquiry report is produced at exhibit 'N' and though it was sent to the District Education Officer, said report does not disclose as to how the witnesses were examined and how the statements were recorded. It is recorded in terms that no Rojkam of the inquiry proceedings was drawn. It is also recorded that the inquiry report merely discussed various charges and it is reiterated in the inquiry report that on asking the employees or on asking some students a particular fact is proved. The Tribunal on perusal of the said inquiry report held that,

> "Because of these fatal flaws in the inquiry proceedings the inquiry proceedings cannot be sustained nor can the findings be accepted and therefore, the impugned order of termination dated 5.8.89 is required to be quashed and set aside. .. .."

5. The Tribunal partly allowed the application filed by respondent no.1 and rejected the claim of respondent no.1 (original applicant) for salaries for the period from 17.6.1988 to 31.7.1988 and for the period from 5.10.1988 to 10.8.1989. The Tribunal has finally ordered

reinstatement of respondent no.1 with effect from the date of the order.

6. On perusal of the papers, the petition has no substance. Therefore, the same is dismissed. Rule is discharged. Ad interim relief is vacated. No order as to costs.

17th November 2000 (Ravi R. Tripathi, J.)

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